

# Town of Loxahatchee Groves

## Regular Town Council Meeting

Tuesday, March 1, 2016 at 7:00 p.m.

### MINUTES

#### 1. OPENING

##### a. Call to Order & Roll Call

Mayor Browning called the meeting to order at 7:00 p.m. Present were Mayor David Browning, Vice Mayor Ronald Jarriel and Council Members Tom Goltzené, Jim Rockett and Ryan Liang. Also present was Town Manager Bill Underwood, Town Attorney Michael D. Cirullo, Jr., and Town Clerk Virginia Walton.

##### b. Pledge of Allegiance & Invocation – Mayor Browning

##### c. Approval of Agenda

Vice Mayor Jarriel asked that Item #11a(2) “Perpetual Permit” be pulled from the agenda and then replaced with “OGEM Road Repairs” for discussion and direction.

**Motion:** a motion to approve the agenda as revised, including Addendum #1, was made by Council Member Liang and Council Member Goltzené. Motion passed 5 – 0.

#### 2. PUBLIC COMMENTS

Dennis Lipp, stated he had heard more unrequested absentee ballots had been delivered to residents for this coming election. He knew there was still an investigation going on from the previous election, and hoped everyone knew how important this coming election was for the Town.

Fred Schriever, Paradise Trail, stated he had two items to comment on. First, he appreciated the improvements being done on the roads; but there was still more to do and wanted to know what the next steps would be. Second, regarding code enforcement, there was a pending case since 2014 regarding the property on 22<sup>nd</sup> Road trailers. They had received permission to install trailers while they built, but then never built anything. What was the Town going to do about this?

Geraldine Erickson, Flamingo Road, stated she was ashamed to have friends come to her home because of the conditions of the roads.

Cletus Keaton, D Road, stated there still seemed to be some confusion regarding his easement and his gate. The gate was on the property line and there should be no access. If that is still on the public map, he wanted it taken off. The contractor sent out took the crown down instead of leaving it alone. Bergeron had come speak with him. Also, he was requesting the

Town Manager do something about the pending nuisance code case regarding the neighbor's setback and sewer in the swale.

Bill Louda, regarding manure storage near the swales, he was hopeful the RETRAG Committee could look into this. He had seen, on C Road, a manure pile almost 4 feet high. Also, he had not heard anything about tipping fees discussed and there were now more equestrians than nurseries in Loxahatchee Groves. There was an Equine EcoGreen Company that had a fantastic process for recycling used horse blankets and manure.

Don Borovy, Tripp Road, stated that when the Town accepted the letter roads, the construction on them was never completed. The pavement is breaking down on D Road and E Road with large holes. The berm by the canal has 1 to 1 ½ feet of dirt coming onto the pavement. His car was damaged on D road. The Town needs to fix all the roads.

Diane Laudadio, 5<sup>th</sup> Ave N., commented that the roads were much better, but the roads were more heavily traveled now and needed more done.

Todd McLendon, D Road, commented that he had talked to many residents and the people were unhappy. The Town needs the roads and drainage fixed. Council is ignoring the issues. They need to move on with the work.

Phyllis Maniglia, D Road, stated she has complained before about the drinking at the A&G. Now another person has been killed. PBSO has put out speed signs, but that is not the problem. The man had been drinking all day and then walked into the road. The problem is also at the TexMex Store. A&G doesn't have a bar license and has no loitering rules.

#### a. Council Comments

Council Member Goltzené stated he agreed with Phyllis regarding A&G. He had gone by there today and almost fifteen people were standing around on the west side of the building. Something needs to be done, but the police don't want to do anything. The gas station and Hay Store were the only places with no drinking. Regarding Cletus's road, this was a systematic problem. The Town doesn't have the easements for the Town roads, which were supposed to be done right but were not. The County was out accessing last year, but this road is still on as a Town Road. What is the public benefit for a road that doesn't go through to anywhere public?

Council Member Rockett stated that after Mark and Cletus spoke, he would like Council support to direct the Manager to have the road fixed where the crown was taken down. Also, if the road goes beyond the gate, that should be an easy fix. Mark, to get the road off the tax roll should be a non-complicated issue. First, repair the road with the rest of the roads. Also look at Paradise for fill and crowning.

Vice Mayor Jarriel stated first, with Paradise, the first sweep was done and now should be a second sweep, hopefully crowning and fill done. There are forty-seven people living there. Regarding Cletus and Mark's road, tis should be a simple problem. Gas tax money has been collected for ten years. Don't care what the maps say, we should put in 57 rock, and have Bergeron work with the Manager on this, then leave the road alone for Cletus and Mark to maintain. Regarding Don's comments, Don has been in the road business and was right about this side of the roads deteriorating because of standing water. The Town should be responsible

to fix. The Town had terminated the Water Control Maintenance Agreement, but that would be addressed at a later time. Vice Mayor Jarriel also agreed with Phyllis that there was a problem at A&G, and there has to be something illegal going on. Possibly, PBSO could be hired for detail work at A&G.

A suggestion was made to initiate something similar to what was done on Clematis Street in West Palm Beach. Each business who had a liquor license paid a portion of the police detail for enforcement.

Manager Underwood responded that the Town first needed an open container ordinance and then PBSO could enforce.

Council Member Goltzené stated that was okay for the long term but possibly a detail for the short term.

Council Member Liang stated that when 22<sup>nd</sup> was first transferred there was discussion on road maintenance, but it never went any further. The Town needs a real maintenance program, not just do “band aid” repairs.

Mayor Browning stated the Town was in the process of changing contractors for the roads and a different contract was on the agenda tonight. The Town had committed to \$1 million for millings for all the roads.

### **3. CONSENT AGENDA**

(Public Comment will be permitted on consent agenda items prior to Council vote)

a. Minutes: February 16, 2016 Town Council Meeting

b. January/February Invoices for Goren, Cherof, Doody & Ezrol, PA

**Motion:** a motion to approve the consent agenda, as revised in Addendum #1, was made by Council Member Liang and seconded by Council Member Goltzené. Motion passed 5 – 0.

### **4. PRESENTATIONS**

a. FEMA Maps and Ordinance

Dennis Lipp, P&Z Board Chairperson

Dennis Lipp stated that during the Planning and Zoning Board Meeting, flood plains had been discussed; but they were advised that the Town had decided not to proceed. Mr. Lipp introduced Mr. Doug Weiss, Palm Beach County Building Official, who gave a presentation on the cost and benefits of adopting the flood plain ordinance versus not adopting. Mr. Weiss advised the Council that there had been an Appeal and new maps would be coming out next year and everyone would be impacted to some extent. The Town Engineer had participated in the Appeal and 162 homes would come off the new maps, while 59 would remain in the flood plain. If the ordinance was not adopted, there would be no FEMA aid for anyone in Loxahatchee Groves, and this would impact the ability to get financing. Mr. Weiss advised the Council on what the requirements would be for the Town, as far as building structures was concerned, if they did adopt the ordinance and also if they did not adopt.

Council thanked Mr. Weiss for his presentation and consensus of Council was to direct the Town Attorney and Manager to put together a report and minimum standard ordinance for the next meeting and then possibly schedule a workshop on this item. Council Member Rockett also asked that the list of properties that were in the flood plain, as well as those taken off, be sent to each council member, and also the website that was referenced in the presentation.

**5. COMMITTEE REPORTS – none scheduled**

**6. RESOLUTIONS**

a. RESOLUTION NO. 2016-09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, TERMINATING FOR CONVENIENCE THE TOWN'S AGREEMENT FOR THE GRAVEL ROAD GRADING AND OTHER ROAD SERVICES FOR TOWN ROADS WITH PROFESSIONAL SERVICES GROUP, LLC; APPROVING A TERMINATION AND MUTUAL RELEASE AGREEMENT BETWEEN THE TOWN AND PROFESSIONAL SERVICES GROUP, LLC; DIRECTING THE TOWN MANAGER TO PROVIDE A COPY OF THIS RESOLUTION AND NOTICE TO PROFESSIONAL SERVICES GROUP, LLC; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

Manager Underwood stated there were two steps to this resolution, the termination for convenience and the agreement along with payment of outstanding invoices, which was reduced to \$47,000.00. After discussion, Council did not wish to approve both the resolution and the agreement as one item.

**Motion:** a motion to approve the resolution for termination for convenience, which would be revised by the Town Attorney prior to signature; but not to approve the mutual release agreement and payment of \$47,000.00 until further review could be done for accuracy, was made by Council Member Goltzené and seconded by Vice Mayor Jarriel. Motion passed by roll call vote 5 – 0.

John Ryan, A Road, stated he appreciated the change in motion since he had been given the PSG invoices and had reviewed them, some which appeared not to conform to the contract. He had made some notes that he wished to enter into the record.

**Motion:** a motion to receive and file the notes from Mr. Ryan was made by Council Member Liang and seconded by Vice Mayor Jarriel. Motion passed 5 – 0.

**7. ORDINANCES – none scheduled**

**8. MANAGER'S REPORT – Town Manager Underwood**

a. Agenda Item Report – Updates on various activities and issues concerning the Town

Manager Underwood brought the Council up to date on several pending projects, including:

- 1) 6<sup>th</sup> Ave North from D Road to C Road was completed
- 2) Bids for replacement of C Road North culvert was awarded and in fabrication. Pastor Calvin was giving a 15 foot easement on the east side.
- 3) Roads/Culvert replacements – Bergeron has submitted a proposal for the Timberland area, but was contingent on contract amendment on tonight's agenda.
- 4) Manure dumping – there was a new complaint, which was being looked into.
- 5) Code Enforcement Services – hopefully have some cost estimates to the Council shortly.
- 6) Financial Software – there had been about 4 – 6 months of lost time due to the transition to a new Management Firm. The company was asking for an amendment to their agreement to get paid in phases rather than all at once. A time line for the Implementation Project Plan was attached.
- 7) B Road Improvements – this was on schedule and should be on the April 5<sup>th</sup> agenda.

## **9. OLD BUSINESS – none scheduled**

Mayor Browning called a break in the meeting at 8:38 pm. Meeting reconvened at 8:43 PM

## **10. NEW BUSINESS**

- a. First Amendment to Road Repair and Maintenance Agreement with Bergeron Land Development Inc., for Supplemental Services on an agreed upon pricing structure

Manager Underwood stated this amendment would add additional levels of service and flexibility not allowed in the original contract. The sticking point was there were only three items in the original agreement allowed for road repairs, and how would the contractor be paid if something else was used. Alternates of millings would be cheaper, but 57 rock would cost a lot more. Council Member Rockett asked about the 8<sup>th</sup> Court crowning. Manager Underwood stated Bergeron would be doing the work but the fencing/gates to the west was causing a problem with grading where it was and they have to shift to the south and do some tree trimming. Council Member Rockett stated he hoped the resident would cooperate with Bergeron to get the work done. Vice Mayor Jarriel added that Cletus and March should work with Bergeron and the Manager, and move their gates if needed.

**Motion:** a motion to approve the amendment to the contract with Bergeron was made by Council Member Goltzené and seconded by Council Member Rockett. Motion passed 4 – 0. Council Member Goltzené was absent from the room at time of vote.

- b. Award of Bid for Disaster Debris Monitoring Services to Witt O'Brien's LLC

Manager Underwood stated that two bids had been received, but one had arrived late and not accepted. The remaining bid was from the same contractor as before. This contract would only be activated in the case of a hurricane.

**Motion:** a motion to award the bid to Witt O'Brien's and direct the Attorney to draft an agreement was made by Council Member Rockett and seconded by Council Member Liang. Motion passed 4 – 0. Council Member Goltzené was absent from the room at time of vote.

## **11. COUNCIL REPORTS**

### **a. Vice Mayor Ron Jarriel**

1. Discussion and Direction for reimbursement to Water Control District for Maintenance Maps Survey Work in the amount of 427,683.00 (back up documents provided)

After Council discussion, there was no public comment on this item.

**Motion:** a motion to approve payment to the Water Control District was made by Vice Mayor Jarriel and seconded by Council Member Rockett. Motion passed 4 – 0. Council Member Goltzené was absent from the room at time of vote.

### ~~2. Discussion and Direction on Perpetual Permit from Water Control District pulled~~

Replaced on Addendum #1 with Letter from Palm Beach State College – Proposed Horse Trail for Council Review – received with no comments

3. Discussion and Direction on re-activation of RETGAC Committee to work on future Equestrian Trails

After discussion, Council felt it was time to put this committee back in service.

Bill Louda stated he believed he was the Chair of this committee and all seats were filled and ready to move forward. He would like to see this get going soon after the elections.

**Motion:** a motion to re-activate the RETGAC Committee was made by Vice Mayor Jarriel and seconded by Council Member Liang. Motion passed 4 – 0. Council Member Goltzené was absent from the room at time of vote.

- 4) Discussion and Direction for OGEM Road repairs

Vice Mayor Jarriel stated this item could be held because he would be discussing this with Manager Underwood.

Council Member Goltzené returned to the Dais at 9:00 pm.

## **12. CLOSING COMMENTS**

### **a. Public**

Joe Siciliano, B Road, stated she had just received the draft easement for B Road from the Town for road and drainage and suggested if the easterly side had to give up 10 feet for this then the westerly side should give the same 10 feet for an equestrian trail. That would be fair.

Dr. Omar Maher's comments were read by Mark Johnson. He stated he had lived there for 35 years and wanted to know why their private road was not entitled to garbage pick-up. The Management Company had told them there was no problem with picking up on private roads,



unless they were instructed not to by the Town management. Mayor Browning responded that the Town had to be careful sending trucks down private roads because of liability issues.

Cletus Keaton requested the Council direct the Town Management to remove his road from the gas tax map and enforce the code case on the next door property. Manager Underwood responded that Mr. Keaton's property was not on the gas tax map, just the open road, which stopped on the west side of Dr. Omar's property. He also wanted the information he had previously requested. Council Member Rockett stated the Town had written a letter on this code issue and asked if the Attorney or Manager could do anything more.

b. Town Attorney – no comments

c. Town Council Members

Council Member Rockett asked the Town Attorney about an update on keeping Okeechobee Boulevard two lanes. Town Attorney Cirullo responded that Palm Beach County had interlocal agreements with other municipalities which gave them control of roads, but Loxahatchee Groves did not have such an agreement. Council Member Rockett asked if the Town could still seize the roads. Attorney Cirullo responded that he had been reminded that at a meeting about a year ago the Attorney for Minto Builders had mentioned that there was a way to seize the roads. He would try to reach out to that Attorney since he had not been able to find such a statute or law so far.

Council Member Liang thanked everyone for coming, and stated he knew the road conditions was a heartache for the residents; but, Bergeron was working on them and there was a big difference already.

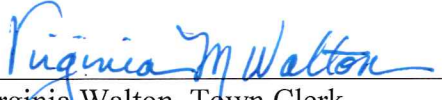
Vice Mayor Jarriel asked Town Attorney Cirullo if he was working on the issue of different speed limits on Town Roads. Attorney Cirullo responded he was, but a study needed to be done before any changes could be made.

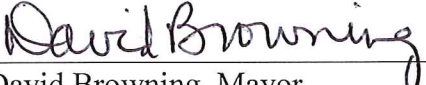
Council Member Goltzené thanked everyone for coming and commented that he felt this was a very good meeting.

Mayor Brown thanked everyone for coming and asked everyone to get out and vote on election day.

## **12. ADJOURNMENT**

The next regular Town Council Meeting is tentatively scheduled for April 5, 2016. Hearing no further business, a motion to adjourn the meeting was made at 9:12 PM.

  
Virginia Walton, Town Clerk

  
David Browning, Mayor

*These minutes were approved by the Town Council on Tuesday, April 5, 2016.*